

## District Judge Daybook Entry

United States District Court - Southern District of West Virginia at Huntington

Date: 10/6/2015

Case Number 2:13-cv-05006

Case Style: Ohio Valley Environmental Coalition vs. Fola Coal Company, LLC

Type of hearing Trial to the Court

Before the honorable: 2514-Chambers

Court Reporter Teresa Ruffner

Courtroom Deputy Terry Justice

Attorney(s) for the Plaintiff or Government Joseph Lovett, Michael Becher

Attorney(s) for the Defendant(s) Robert McLusky, Shane Harvey, Jennifer Hughes

Law Clerk Liz Stegeman

Probation Officer

Trial Time

Non Jury Trial. Day No: 1

### Non-Trial Time

### Court Time

9:04 am to 10:43 am

10:58 am to 12:30 pm

1:47 pm to 2:56 pm

3:08 pm to 5:36 pm

Total Court Time: 6 Hours 48 Minutes Court actively conducting trial proceedings/Contested proceedings

### Courtroom Notes

Trial scheduled to commence: 9:00 am

Trial commenced: 9:04 am

Preliminary matter.

Opening statements.

Plaintiffs' 1st witness, Drew McAvoy, sworn & examined.

Plaintiffs' exhibit #30 identified.

Plaintiffs' exhibit #31 identified.

Plaintiffs' exhibit #32 identified.

Plaintiffs' exhibit #51 identified.

Plaintiffs' exhibit #33 identified.

Plaintiffs' exhibit #42 identified.

Recess 10:43 am

Resume 10:58 am

Plaintiffs' exhibit #s 31, 32, 33, and 30 admitted.

Plaintiffs moved the admission of exhibit #51, denied.

Defendant's exhibit #73 identified.

Plaintiffs rested.

Defendant's 1st witness, Alan Meek, sworn & examined.

Defendant's exhibit #81 identified.

Defendant's exhibit #78 identified.

Defendant's exhibit #77 identified.

Defendant's exhibit #79 identified.

## District Judge Daybook Entry

Defendant's exhibit #82 identified.  
Defendant's exhibit #87 identified.  
Defendant's exhibit #89 identified.  
Defendant identified Plaintiffs' exhibit #56.  
Defendant identified Plaintiffs' exhibit #55.  
Defendant's exhibit #90 identified.  
Recess 12:30 pm

Resume 1:47 pm  
Continued examination of Mr. Meeks.  
Defendant's exhibit #s 73, 79, 78, 77, 81, 82, 87, 89, and 90 admitted.  
Plaintiffs' exhibit #s 56 and 55 admitted.  
Plaintiffs' exhibit # 57 identified.  
Plaintiffs' exhibit # 58 identified.  
Plaintiffs' exhibit # 59 identified.  
Recess 2:56 pm

Resume 3:08 pm  
Continued examination of Mr. Meeks.  
Defendant's exhibit #106 identified.  
Plaintiffs' exhibit #45 identified.  
Defendant's exhibit #106 admitted.  
Plaintiffs' exhibit #s 57 and 59 admitted.  
Plaintiffs' moved admission of exhibit #58, denied.  
Defendants rested.  
Plaintiffs to submit pertinent portions of testimony of qualifications of Dr. Baker from phase I of the last OVEC v. Fola trial.  
Plaintiffs' rebuttal witness, Matthew Baker, sworn & examined.  
Plaintiffs' exhibit #37 identified & admitted.  
Defendant's exhibit #107 identified & admitted.  
Plaintiff's exhibit #45 admitted.  
Closing statements.  
Response of the Court and parties.  
Adjourn 5:36 pm